

AMENDED OIL AND NATURAL GAS TAX
REVENUE SHARING AGREEMENT

BLACKFEET TRIBE and STATE OF MONTANA

THIS AGREEMENT is entered into this ____ day of January, 2000, by and between the State of Montana and its political subdivisions, hereinafter referred to as "State", the Blackfeet Tribal Business Council of the Blackfeet Tribe, hereinafter "Council" or "Tribe". These government entities are collectively referred to as the "parties." The term local government or governments as used in this Agreement means all taxing units or jurisdictions which levy mills on property including all county and state school equalization mills and the university levy.

The Blackfeet Tribe and the State of Montana, mutually agree that the current status of Federal Indian Law recognizes the sovereign power of the Tribe to tax the production of oil and gas within the Blackfeet Indian Reservation pursuant to the rule announced by the United States Supreme Court in MERRIONN v. JICARILLA APACHE TRIBE, 455 U.S. 130 (1982), and that the United States Supreme Court, in the case COTTON PETROLEUM CORP. v. NEW MEXICO, 490 U.S. 163 (1989), has also recognized the right of the State to tax the interest of the non-Indian lessee or producer of oil and gas from the Blackfeet Indian Reservation. See also, Title 25, United States Code, Section 398.

In order to avoid the dual taxation effect if both the State and Tribe proceed to exercise their respective authority, the parties enter into this Agreement to share the revenue generated from taxation, create a single tax uniform with taxes outside the Reservation, and to create an environment which fosters and promotes economic development within the Blackfeet Reservation. The Council is the duly elected and governing body of the Tribe and is authorized to enter into this Agreement on behalf of the

Blackfeet Tribe by the Tribe's Constitution, Art. VI, Section 1(a) and 1(k).

The State is authorized pursuant to the State-Tribal Cooperative Agreements Act, Chapter 11, Title 18, MCA, to enter into an Agreement in writing with tribal governments to assess and collect or refund any tax or license or permit fee and to share or refund the revenue from the assessment and collection. The Department of Revenue is the public agency for the State responsible for administering this Agreement. The Director of Revenue has been designated by the Governor to sign revenue sharing agreements with tribal governments.

The parties agree as follows:

1. General purposes of Agreement. The purposes of this Agreement are to mitigate the effects of dual taxation of oil and natural gas production by both the Council and the State, and to ensure that the same level of taxation is imposed within and outside the boundaries of the Blackfeet Indian Reservation, (hereafter, "Reservation"). The parties also intend by this Agreement to promote oil and gas development on the Reservation which will enhance the economy of not only the Reservation but Glacier and Pondera Counties and the State of Montana. All of the citizens of Montana will benefit but in particular, Indian allottees, tribal members, and all Glacier and Pondera County residents will benefit from this Agreement. In consideration of the mutual benefits to the parties arising from the purposes described above, the parties agree to share revenue from oil and gas production taxes on the Reservation.

2. Tribal law. The Council agrees to adopt and keep in force an ordinance imposing taxes equal to the Montana oil and natural gas production taxes, which shall apply to all production on the Reservation. The tax rates which the tribe agrees to adopt and apply to collect the tax is a combination of the tax provided for

in 15-36-304, MCA and 82-11-131, MCA. In addition, the Tribe agrees to adopt and enforce interest, penalty, and enforcement provisions the same as the state provisions located in Title 15, Chapter 36 MCA (1995). Also, the tribe shall adopt and use for purposes of collecting the tax, tribal and state definitions. The state definitions are found in 15-36-303, MCA. These definitions shall also apply to the distribution provisions of this agreement. If the Montana Legislature changes the laws regarding taxation of oil and natural gas, the State shall promptly notify the Council of the change. The Council agrees that it shall, prior to the end of the calendar quarter in which it receives notice of a change, adopt an amendment or amendments to the Blackfeet ordinance so the ordinance and state law remain the same. After adoption of the change, the Council may request renegotiation of this Agreement. If renegotiations fail, either party may terminate this Agreement. The Council shall supply the State with a current copy of the ordinance as it may be amended from time to time.

3. State law. The State imposes taxes on the production of oil and natural gas within the state of Montana. Title 15, Chapter 36 and Title 82, Chapter 11, MCA. The State shall promptly notify the Council in writing of the changes or amendments to these provisions which the State believes necessitate an amendment to tribal law or ordinance under this Agreement.

4. Collection and administration of taxes. The parties hereto agree that oil and natural gas produced on the Reservation shall not be subject to both state tax and tribal tax, but shall be subject to one tax. The Council agrees to collect all taxes on oil and natural gas produced on the Reservation and to remit to the State and local governments their share of the taxes from oil and natural gas production on the Reservation as determined by the formulas described below. However, the parties understand that this Agreement does not change the law concerning the taxation of oil and natural gas production owned by the Blackfeet Tribe. The State

can not legally tax tribally owned production on the Reservation and such production will not become subject to tax on the Reservation as a result of this Agreement. The Tribe agrees to enforce all tribal rules and regulations as well as state administrative rules pertaining to the collection and enforcement of oil and natural gas taxation as they may be amended from time to time. The state rules are currently found in Administrative Rules of Montana, ARM 42, Chapter 25. In order to facilitate producers filing returns, the Tribe and the state will use the same basic forms and may from time to time adopt new forms. The Tribe will require the companies to file copies of the returns with the state in order to determine the amount of tax to be distributed to local government. The parties agree that existing insurance, bonding and sureties are sufficient and no additional insurance or bonding is necessary.

5. Formulas for sharing tax revenue.

A. The distribution of tax revenues varies depending on the product produced (crude oil or natural gas), the type of well (stripper, horizontally drilled or horizontally recompleted), the date the well was completed , and the amount of production. The percentages referred to in this section are the percent of tax collected by the Tribe and do not refer to the tax rates. The percentages in this section do not in any way change the tax rates applicable to the oil and natural gas production on the Reservation.

B. The concept behind the distribution is that the Tribe will receive the State general fund share of the State share of production taxes for wells drilled on the Reservation. The State will receive the production taxes which fund the Resource Indemnity Trust and Ground Water Assessment Tax (RIGWAT), Section 15-38-101, et seq., MCA and the Board of Oil and Gas Conservation, Section 82-11-131, MCA. The local governments and all school funding sources will continue to receive their share of production taxes

for wells completed before January 1, 1996, but will give their share of production to the tribe for the first three years of production on all wells completed after January 1, 1996. After the first three years of production, the tribe and local governments will share the revenue which originally went to the local government until, at the conclusion of 9 years of production the local government will receive 99% of the production taxes it received prior to January 1, 1996 and the Tribe will receive 1% of the amount which went to the local government prior to this Agreement. The 1% share is in the manner of an administrative fee to help compensate the Tribe for collecting the tax. No other administrative fee shall be withheld or collected by the Tribe. The Tribe and local governments will share the production from years four, five, and six, based on 45% to the local government and 55% to the Tribe. The Tribe and local governments will share the production from years seven, eight, and nine, based on 70% to the local government and 30% to the Tribe.

C. The local government share shall go to the counties in which the particular wells are located, which shall distribute the tax revenue to the various taxing units based on mill levies (including the county and state school equalization and university mill levies) in the same manner required by sections 15-36-324 and 15-36-325, MCA. The Montana Department of Revenue will provide schedules to the counties in order to assist them in distributing the revenue based on the location and type of production of each well. The tribe may at its option write a check for the appropriate amount, as determined by the Department of Revenue, to the local school districts but this shall not change the distribution of local tax revenue among the taxing units.

D. The state share of the tax collected by the Tribe shall be distributed to the RIGWAT and State Board of Oil and Gas Conservation by the Department of Revenue.

6. Time of Distribution of the tax collected.

The Council agrees to make the first distribution within one hundred and twenty days from the end of the first calendar quarter after the effective date of this Agreement. The Council will make subsequent distributions within 120 days of the end of each calendar quarter until the expiration or termination of this Agreement. A calendar quarter begins on January 1, April 1, July 1, and October 1 of each year. The amount payable to the State, and local governments shall be forwarded in the form of a warrant issued by the Blackfeet Tribe and mailed to the addresses and individuals set out below.

7. Audits. The parties agree that the right to audit the records of every party to this Agreement is a material right of this contract and essential for each party to ensure that the continuation of this Agreement is in the best interest of each party. Each party may examine or audit the records of the other party to determine the accuracy of the statements or representations called for in this Agreement and to ensure the actual collection of taxes as provided in the tribal ordinance and state law. The parties may require independent audits at any reasonable time at their own expense. The right of examination or audit shall exist during the term of the Agreement and for a period of one year after the date of any termination or expiration of this Agreement. The parties agree to maintain the confidentiality of any confidential information obtained from any other party. This agreement does not affect or impair the parties' authority under applicable state and tribal law to audit the records of all taxpayers on the Reservation. Each party hereby pledges its mutual cooperation to the others in obtaining taxpayer compliance with any requests for taxpayer audits. Additionally, each party will share any and all information it discovers which may aid the other party in collecting taxes or royalties. Upon five days notice, each party expressly covenants to the other parties to make all the records within its custody or constructive possession available

during business hours to the other parties or their agents, for review or audit.

8. No tribal tax on moveable equipment. The Council agrees that it will not impose a tax on moveable oil and gas drilling equipment. Moveable oil and gas equipment does not include those items normally associated with the life of production, including: storage tanks, pump jacks, dog houses and associated equipment, pipelines, and compressor stations. These items will continue to be subject to the Blackfeet Possessory Interest tax. The Council also agrees that the State and its political subdivisions may continue to impose their taxes, as they have in the past.

9. Encouragement of approval of projects funded by RIGWAT on the reservation. The State agrees to encourage the Montana Legislature to authorize the expenditure of tax revenues collected under the Resource Indemnity Trust and Ground Water Assessment Act for qualified projects on the Reservation. The State will facilitate discussions between the Board of Oil and Gas Conservation and the Resource Development Bureau of the Department of Natural Resources concerning the assistance that these state agencies can provide on the Reservation.

10. Jurisdiction and Venue. The parties agree and stipulate that venue and jurisdiction for enforcement of the terms hereof lie in the United States District Court, Great Falls Division, Great Falls, Montana. In the event of a breach by either party of any of the terms hereof, upon written notice to the breaching party of the substance of the alleged breach and the remedies sought, the nonbreaching party shall be entitled to suspend any of the nonbreaching party's obligations hereunder to the extent of the breach and petition the United States District Court for the District of Montana for the appropriate relief. Appropriate relief shall be limited to monetary judgment against the breaching party, including costs and attorneys fees, arising from the breach, and such other relief as is necessary to put the nonbreaching party in

the same position they would have been in had the breaching party fully performed. The failure to pursue a remedy for one or more breaches is not a waiver of any right to enforce a subsequent breach of the same or a different term hereof.

11. Waiver of Sovereign Immunity. The State has waived its sovereign immunity, on behalf of the State and all political subdivisions thereof from suit for contract actions arising under this contract. See, Mont. Code Ann. Sec. 18, part 1, Chapter 4. The Tribe hereby makes this limited waiver of sovereign immunity from suit, only for the purposes of carrying out its obligations under this agreement and only to the extent necessary to enforce any judgment rendered in accord with the terms of this agreement.

12. Time is of the essence. The parties agree that time is of the essence with respect to the collection and distribution of taxes as specified herein. Any breach of the obligation to collect and distribute taxes as provided for herein is a material breach of this Agreement. The State and local governments rely on receipt of taxes collected for ongoing governmental expenditures made for public health and safety. Any delay or interruption in the collection and distribution of these revenues will create immediate hardship to these parties.

13. Enforcement of collection obligations and mediation. The Tribe and State have legal obligations to ensure that taxes are being collected as required by law on all persons required to pay the taxes which are the subject of the Agreement. If the State reasonably believes that the Tribe has not collected the taxes as required by tribal ordinance and state law, they shall provide written notice to inform the Council of the specific nature of the disputed amount, and state therein a reasonable period within which the Council must cure the problem. The Council shall notify all parties within 30 days of receipt of such a notice, whether or not it agrees that taxes have not been collected as required by tribal ordinance and state law. If the Council does not so notify the

other parties within 30 days of receipt of the notice, the State and/or it's political subdivisions may collect the taxes. If the Council notifies the parties and a dispute concerning a collection matter is raised which can not be resolved to the satisfaction of all parties, any party may call for the matter to be submitted to an independent audit by an accountant who shall also act as a mediator in order to assist the parties in resolving the dispute. The independent auditor shall conduct an audit and investigation of the matter and issue a written report of their findings regarding the collection issue, including suggestions on how the issue could be resolved. The report will not be binding on either party but is intended as a tool to assist resolution of any dispute. The parties agree within ninety days of execution hereof to agree on the name of an accountant to whom accounting, collection, or distribution disputes may be submitted for independent audit and mediation. The parties agree that the cost of any such audits hereunder shall be deducted by the Council from the taxes collected and prior to the distribution to the parties as required above. The parties intend that each party shall equally share in the cost of the audits.

14. Representations and warranties. The parties represent and warrant to each other as follows:

a. That each has the authority to enter into and fully perform all of the terms and conditions of this Agreement in accordance with all applicable tribal, state, and federal law,

b. That the individuals executing this Agreement are duly authorized to do so on behalf of each party,

c. That upon execution this Agreement is a valid and binding obligation upon each party and for the term of the Agreement enforceable in accordance with its terms,

d. That no impediments or conditions precedent to the execution or effectiveness of this Agreement exist, and

e. That each party will exercise its authority to do all

things necessary and proper to assure continued compliance with the terms contained herein.

15. Term. This Agreement shall become effective July 1, 1999 and terminate December 31, 2000 and is subject to the renewal provision and any requirements for renegotiation specifically provided for in this Agreement.

16. Effective date. This Agreement can not be effective until after a public hearing as required by 18-1-103, MCA, has been held and comments are received and considered. The State will notify the Council in writing as soon as possible after all comments have been considered whether or not the Agreement is effective and the date the Agreement is effective. In addition, this Agreement is subject to the approval of the Montana Attorney General and upon the Tribal Council having in place an ordinance as described in paragraph 2, on the date of the public hearing.

17. Amendments and renewal.

a. This Agreement may be amended only by written instrument signed by both parties.

b. Six months prior to expiration of the initial term provided in this Agreement, the parties may meet to negotiate in good faith a renewal of the Agreement.

16. Reservation of rights and negative declaration. The parties agree that by entering into this Agreement, neither the State, nor the Council shall be deemed to have waived any rights, arguments, or defenses available in litigation on this subject except as otherwise specifically provided in this agreement. This Agreement is specifically not intended to reflect or be viewed as reflecting in this or any context either party's position with respect to the jurisdictional authority of the other. Nothing in this Agreement or in any conduct undertaken pursuant thereto shall be deemed as enlarging or diminishing the jurisdictional authority of either party except to the extent necessary to implement and effectuate the Agreement's terms. This Agreement, conduct pursuant

thereto or conduct in the negotiations or renegotiations of this Agreement shall not be offered as evidence, otherwise referred to in any present or future litigation, or used in any way to further either party's equitable or legal position in any litigation. By entering into this Agreement, neither the State, nor the Council are forfeiting any legal rights to apply their respective taxes except as specifically set forth in this Agreement. This Agreement does not apply to any tax other than the taxes specifically referred to herein. It does not apply to any other taxes or fees of any nature collected by the State, local governments or the Tribe. This Agreement does not apply to any other tax collected by any agency or subdivision of the State of Montana other than those signing this Agreement. Nothing in this Agreement shall be deemed a concession by either party to the other party's jurisdictional claims or any type of admission thereto, or a waiver of the right to challenge such claims. Nothing in this Agreement shall prejudice the right of any party to challenge the regulatory or adjudicatory jurisdiction of any party.

18. Notices. Whenever any party herein provides notice to any other party herein, the initiating party shall simultaneously copy that communication to all the other parties hereto. All notices and other communications given hereunder shall be deemed to have been duly given when delivered in person or posted by United States certified mail, return receipt requested, with postage prepaid, addressed as follows:

I. If to the Council:

Chairman
Blackfeet Tribal Business Council
P. O. Box 850
Browning, MT 59417

II. If to the State:

Director of Revenue
Mitchell Building
Helena, Montana 59620

Attorney General of the State of Montana
215 North Sanders
Helena, Montana 59601-1401

Notice shall be considered given on the date of mailing.

DATED this 4th day of February, 2000.

STATE OF MONTANA

/s/ MARY BRYSON
Mary Bryson
Director of Revenue

BLACKFEET TRIBE

/s/ WILLIAM OLD CHIEF
William Old Chief, Chairman
Blackfeet Tribal Business Council

Approved pursuant to 18-11-105, MCA

/s/ Joe Mazurek
Joe Mazurek
Attorney General

I, Ross P. Denny, Superintendent, Blackfeet Indian Agency, the Bureau of Indian Affairs, United States Department of the Interior, do hereby approve this Agreement pursuant to 25 U.S.C. 81.

/s/ ROSS P. DENNY
Ross P. Denny

CONCURRENCE OF LOCAL GOVERNMENT

The following political subdivisions of the State of Montana (local governments) concur with the intent of the parties to the above agreement to increase oil and gas production on the Blackfeet Reservation and share revenue from such production. These local governments are in general concurrence with the terms of the above agreement.

GLACIER COUNTY

/s/ LOWELL W. MEZNARICH

/s/ ALLEN R. LOWRY

/s/ WILLIAM L. ICENOGGLE
GLACIER COUNTY COMMISSIONERS

PONDERA COUNTY

/s/ BILL RAPPOLD

/s/ SAM HARRIS

/s/ DALE SHELDON
PONDERA COUNTY COMMISSIONERS

TRUSTEES FOR THE SCHOOL DISTRICT NO. 9 - Glacier County

Chairperson

TRUSTEES FOR THE SCHOOL DISTRICT NO. 15 - Glacier County

Chairperson

TRUSTEES FOR THE SCHOOL DISTRICT NO. 50 - Glacier County

Chairperson

TRUSTEES FOR THE SCHOOL DISTRICT NO. 64 - Glacier County

Chairperson

TRUSTEES FOR THE SCHOOL DISTRICT NO. 1 - Pondera County

Chairperson

TRUSTEES FOR THE SCHOOL DISTRICT NO. 18 - Pondera County

Chairperson